

Guidelines

Qualifying Employment in Innovation and Creativity (Personal Tax)



MALTAENTERPRISE

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<http://support.maltaenterprise.com>



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1. Introduction

1.1 Objective

The development and expansion of knowledge based industries requires the availability of human resources. Such resources may be developed through education and training, however such resources would need to be substantiated through knowledge and experience. This measure facilitates employment of non residents in roles which are currently not addressed by the local labour market by temporarily easing the tax expenses incurred by such persons through a fiscal incentive.

1.2 Duration of the measure

This measure will be active until 31st December 2017. Malta Enterprise may periodically review, update and amend these Guidelines.

1.3 Legal Basis

S.L. 123 141 entitled *Qualifying Employment in Innovation and Creativity (Personal Tax) Rules* as subsidiary legislation to the Income Tax Act (CAP. 123) of the Laws of Malta, provides the national legal basis of this incentive.

1.4 Designated Authority

Malta Enterprise, (hereinafter referred to as ‘the Corporation’) is the Authority with the designated Authority to determine eligibility of the person to benefit from this measure.

2. Definitions

2.1 Eligible Office

- 1) *An Eligible Office* shall cover employment in a role directly engaged in:
 - a) Industrial Research and Experimental Development insofar that the applicant is in possession of a post graduate degree in sciences or engineering that is applicable to the role. For the purpose of this measure:
 - i. Industrial Research shall mean the carrying out (individually or as part of a team) planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.
 - ii. Experimental Development shall mean acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services.
 - b) Product development and product or process innovation insofar that the applicant is either in possession of post graduate degrees in sciences, engineering, design, creativity, product development, or art and that is applicable to the role or has demonstrated a minimum of (3) years experience as part of a team engaged in a similar role. For the purpose of this measure:
 - i. Product development shall mean the detailed specification and development of new tangible products (include electronic products such as media and software products).
 - ii. Product or process innovation shall mean the implementation of significant improvements to tangible products (including electronic products such as media and software products) and industrial processes aimed to increases current capabilities including customisation and localisation.
 - c) An Eligible Office shall also include Senior Management roles in so far that the person's responsibility within the firm is directly related to creativity and innovation tasks described by (a) and (b) above. A Senior Management role entails that the applicant reports directly to the Board of Directors as should be specified in the contract of employment¹.

¹ As specified in Section 4 of the Incentive Guidelines, an individual may only benefit from the 15% tax rate if the individual does not control more than 25% of the shares of the undertaking in which he is employed as outlined in Subsidiary Legislation 123.141.)

3. Description of Measure

This measure is open to individuals, who are employed in an “eligible office” as defined in Section 2.1 of these Guidelines. Such individuals may request the Corporation to determine their eligibility to benefit from a flat income tax rate of 15%.

The benefit may only be claimed after a formal determination of eligibility is issued by the Corporation and as long as all the following parameters are respected:

- a) The 15% tax rate shall apply for a consecutive period of not more than three (3) years, commencing from the year preceding the year of assessment in which that person is first liable to pay tax. Yet the Corporation shall extend the option by one (1) year for eligible persons whose employment commences on or between 1st September and 31st December of any year.
- b) The benefit may not be claimed in respect to income received in any year preceding the determination of the Corporation.

Applications received after the 30th November of any year will be processed in the following calendar year. Thus, if the applicant is deemed eligible the benefit may start to be claimed on income received in the following year.

Examples:

Start of Employment	May 2015	September 2015	September 2015	June 2015
Application Date	August 2015	November 2015	December 2015	January 2016
Determination by Corporation	2015	2015	2016	2016
Benefit Applicable to income received in	2015	2015	2016	2016
	2016	2016	2017	2017
	2017	2017	2018	
		2018		

4. Eligible Employment

An individual may benefit from the 15% tax rate if the applicant satisfies all of the following employment conditions:

- a) derives employment income of a minimum of forty-five thousand euro (€45,000) and subject to paying income tax on such income in Malta;
- b) has an employment contract subject to the laws of Malta and proves to the satisfaction of the Corporation that the contract is drawn up for exercising genuine and effective work in Malta;
- c) must be in a possession of qualifications issued by an educational establishment attesting the successful completion at post-graduate level² and as recognised by the Malta Qualification Recognition Information Centre as established by Article 6 (1) of the Mutual Recognition of Qualifications Act that is relevant to the eligible office;

OR

has a minimum experience of three (3) years in a role comparable to that of the eligible office;

- d) has not benefitted from deductions available to investment services expatriates with respect to relocation costs and other deductions (under article 6 of the Income Tax Act);
- e) fully discloses for tax purposes and declares emoluments received in respect of income from a qualifying contract of employment and all income received from a person related to his/her employer paying out income from a qualifying contract as chargeable to tax in Malta;
- f) proves to the satisfaction of the Corporation that the tasks and activities performed are of an eligible office;
- g) proves that is in receipt of stable and regular resources which are sufficient to maintain oneself and the family members without resource to the social assistance system in Malta;
- h) resides in accommodation regarded as normal for a comparable family in Malta and which meets the general health and safety standards in force in Malta;
- i) in possession of a valid travel document;
- j) not domiciled in Malta;
- k) in possession of sickness insurance in respect of all risks normally covered for Maltese nationals for himself and the members of his family;
- l) in respect of any employment commencing from 1st January 2016 the applicant shall be required to present evidence of the recruitment process. This shall entail the presentation of documentation showing how the call was advertised; and
- m) An individual may only benefit from the 15% tax rate if the individual does not control more than 25% of the shares of the undertaking in which he is employed as outlined in Subsidiary Legislation 123.141.

² The grading structure could be obtained from the NCFHE website - www.ncfhe.org.mt

5. Applying for the measure

5.1 Support to applicants

Potential applicants may contact Business First for guidance and information about the measure. Business First staff will support prospective applicants to understand the applicable regulations and guidelines and to address any problems that might be encountered when completing the application.

5.2 Application Process

Applicants are required to use the official application which may be downloaded from the Malta Enterprise website <http://incentives.maltaenterprise.com>.

The complete application must be electronically filled in and submitted to Business First either by hand in a sealed envelope or by registered post. The application must be addressed to:

Business First
Qualifying Employment in Innovation and Creativity
Gwardamangia Hill,
Pieta', MEC 0001
Malta.

Handwritten or incomplete applications shall be rejected.

5.3 Notification of results

Applicants will be notified in writing of the outcome of their application.

On being satisfied that an applicant satisfies the conditions set out in these Guidelines and the Regulations, the Corporation will provide the applicant with an Entitlement Certificate confirming the determination of eligibility.



6. Monitoring and Control

The Corporation and/or the Commissioner of Inland Revenue:

- a. may request the employer to carry out or commission third parties to carry out on-site checks during the period of employment. Such visits may entail the verification of the documentation related to the relevant employment and the confirmation of the works carried out.
- b. may periodically request verifications to confirm that the beneficiary is still abiding to the regulations established in the applicable regulations and these Guidelines .
- c. will revoke any approved and/or granted aid if any evidence is found showing that the beneficiary has abused of the right to this incentive.



7. Contact Details

Further information on the scheme, as well as information and guidance on the filling in of the application form may be obtained by contacting Business First during office hours.

Postal Address: Business First
Gwardamangia Hill,
Pieta`, MEC 0001
Malta.

Tel: 144

Websites: <http://www.maltaenterprise.com>

www.businessfirst.com.mt

Email: info@businessfirst.com.mt